

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 520 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 & 2 Yes and 3 to 5 No

PRABUDAS D. NAGECHA

Versus

RAJKOT MUNICIPAL CORPORATION

Appearance:

MR RM RUPAREL for Petitioner
Respondent No. 1 served
MR SURESH M SHAH for Respondent No. 2

CORAM : MR.JUSTICE S.D.SHAH

Date of decision: 03/07/97

ORAL JUDGEMENT

1. The petitioner is a third party applicant who applied to the trial court for being joined as a plaintiff in Regular Civil Suit No. 511 of 1988 pending before the Court of Civil Judge, Senior Division, Rajkot. In such suit, there were total 11 plaintiffs, none of

whom is impleaded as party in the present Civil Revision Application. The respondents are the original defendants. The trial court has rejected such application at Exhibit 23 by judgment and order dated 1st of August, 1991 on the ground that under Section 487 of the B.P.M.C. Act, before institution of the suit, notice is required to be given to the Corporation and admittedly, the applicant who wants to be impleaded as plaintiff along with other plaintiffs has not given such notice. He cannot, therefore, be permitted to be impleaded as a party plaintiff because the other plaintiffs have already given such notice and the third party cannot take advantage of this fact. In aforesaid view of the matter, it would have been open to the third party to give statutory notice to the Corporation and thereafter to institute a separate suit but it was not open to him to apply for being impleaded as a party because action of other plaintiffs against the Corporation was maintainable, by his action would not normally be maintainable in absence of statutory notice. In that view of the matter, the trial court rejected the application.

2. In view of the aforesaid reasoning of the trial court, I do not find any flaw in such reasoning and I am in total agreement with the final conclusion reached by the trial court. No jurisdictional error worth its name is pointed out to this court and hence interference of this court is not called for and the Civil Revision Application is, therefore, dismissed. Rule is discharged with no order as to costs.

pnn